REMARKS

In the Office Action of December 13, 2005, claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Duault (6,912,224) in view of Yao (6,097,697). Claim 1 includes an operation (b) of "holding each data element that is received prior to an end of a time period in a buffer until the end of the time period, at which time the data element is released for playout," and an operation (c) of "monitoring a loss rate at which data elements in the data stream are not received by the end of their respective time periods." Claim 1 further includes an operation (d) of "adjusting a duration of the time period based upon the loss rate." It is important to note that "the time period" that is adjusted in operation (d) is the time period referred to in operation (b), i.e. the time period at the end of which the data elements held in operation (b) are released for playout. The Examiner concedes that Duault does not teach operations (c) and (d). The Examiner asserts that operation (d) is taught by Yao, saying that Yao teaches adjusting a *transmission rate* based upon a loss rate. Applicant submits that claim 1 does not claim adjusting a transmission rate. It claims adjusting a time period at the end of which the data elements held in operation (b) are released for playout. Neither Duault nor Yao teach this. For at least these reasons, Applicant submits that claim 1 and claims 2-11 depending therefrom are not obvious in view of Duault and Yao.

Also in the Office Action, claim 12 was rejected under 35 U.S.C. 103(a) as being unpatentable over Duault in view of Yao, and further in view of Mourier (6,335,918). Claim 12 is directed to a method of estimating an unreceived data element of a transmitted digital media data stream comprising a stream of data elements. The method comprises "(a) receiving, by an adaptive jitter buffer, a subsequent data element that follows the unreceived data element in the data stream; and (b) estimating, by the adaptive jitter buffer, a parameter of the unreceived data element based on the received subsequent data element." The Examiner concedes that neither Duault nor Yao teach estimating, by an adaptive jitter buffer, a parameter of an unreceived data element based on a received subsequent data element. The Examiner asserts that this element of claim 12 is taught by Mourier, and cites col. 2, lines 26-33 of Mourier. Applicant submits that the cited section of Mourier (nor any section of Mourier) does not teach estimating a parameter

of an unreceived data element based on a received subsequent data element. The cited excerpt of Mourier merely describes estimating a data cell loss ratio. It does not in any way describe an estimation of a parameter of an unreceived data element, per claim 12. Estimating a loss ratio and estimating a parameter of a particular unreceived data element are two completely different things. Furthermore, Mourier's estimation of the loss ratio is not based upon a received subsequent data element in the data stream, per claim 12. Still further, Mourier does not disclose a jitter buffer at all, so it does not teach any operations performed "by an adaptive jitter buffer" per operation (b) of claim 12. For at least these reasons, Applicant submits that claim 12 and claims 13-22 depending therefrom are not obvious in view of Duault, Yao and Mourier.

Also in the Office Action, claim 23 was rejected under 35 U.S.C. 103(a) as being unpatentable over Duault in view of Mourier. Claim 12 is directed to a system of estimating an unreceived data element of a transmitted digital media data stream comprising a stream of data elements. The system comprises "a jitter buffer adapted to receive a transmitted digital media data stream and to hold each received data element until an end of a time period, at which time the data element is released for playout; and a lost data element recovery mechanism adapted to estimate a parameter of an unreceived data element based on a received subsequent data element that follows the unreceived data element in the data stream." The Examiner concedes that Duault does not teach the lost data element recovery mechanism of claim 23. The Examiner asserts that this element of claim 23 is taught by Mourier, and cites col. 2, lines 26-33 of Mourier. Applicant submits that the cited section of Mourier (nor any section of Mourier) does not teach estimating a parameter of an unreceived data element based on a received subsequent data element. The cited excerpt of Mourier merely describes estimating a data cell loss ratio. It does not in any way describe an estimation of a parameter of an unreceived data element, per claim 23. Estimating a loss ratio and estimating a parameter of a particular unreceived data element are two completely different things. Furthermore, Mourier's estimation of the loss ratio is not based upon a received subsequent data element in the data stream, per claim 12. For at least these reasons, Applicant submits that claim 23 and claims 24-33 depending therefrom are not obvious in view of Duault and Mourier.

On page 2 of the Office Action, claims 6, 8 and 24 were objected to for various informalities. Claims 6, 8 and 24 are amended herewith in response to these objections
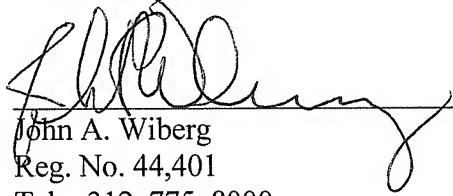
In view of the foregoing, Applicant respectfully requests allowance of claims 1-33.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: June 13, 2006   Respectfully submitted,

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